

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

IN RE:

**BURTON M. KAHN,

Debtor.**

Chapter 7

Case No. 14-50980-cag

HELVETIA ASSET RECOVERY, INC.

Plaintiff,

v.

**BURTON M. KAHN,

Defendant.**

Adversary Proceeding No. 14-05052-cag

**MOTION TO EXPEDITE HEARING
REGARDING PLAINTIFF'S MOTION TO CONSOLIDATE
SANCTIONS HEARING WITH TRIAL ON THE MERITS**

TO THE HONORABLE CRAIG GARGOTTA, UNITED STATES BANKRUPTCY JUDGE:

Helvetia Asset Recovery, Inc. ("Helvetia"), creditor and party-in-interest, files this Motion to Expedite (the "Motion to Expedite") Regarding the Motion to Consolidate Sanctions Hearing with Trial on the Merits (the "Motion to Consolidate"), and in support thereof, respectfully submits the following:

I. BACKGROUND

1. On August 19, 2014, the United States Bankruptcy Court set this matter for trial on the merits on January 7, 2015 (Scheduling Order, Docket No. 5).

2. On October 2, 2014, Defendant/Debtor Burton Kahn ("Mr. Kahn") filed Defendant's Motion for Sanctions. (Docket No. 10.) On October 8, 2014 the Court set

Defendant's Motion for Sanctions for hearing (Notice of Hearing, Docket No. 11), setting the hearing on Wednesday, October 29, 2014, at 9:00 a.m.

II. RELIEF REQUESTED

3. Contemporaneously with this Motion to Expedite, Helvetia has filed the Motion to Consolidate [Docket No. 13]. Helvetia requests that the Court conduct an expedited hearing or consideration regarding the Motion to Consolidate.

4. Plaintiff's counsel conferred with Mr. Kahn through email exchanges concerning the relief requested by the Motion to Consolidate. Helvetia construes Mr. Kahn's responsive email as opposed to the relief sought therein. Accordingly, Motion to Consolidate is presented as an opposed motion.

5. Helvetia respectfully requests expedited consideration or an expedited hearing on the Motion because the setting for the Sanctions Motion is October 29, 2014.

6. As set forth in the Motion to Consolidate, Helvetia stands ready to try the case on the merits on October 29, 2014. There is no pending or outstanding discovery. The parties' previous litigation of these matters was recent: the two state court actions were filed on November 4 and 5, 2013, and they were both finalized by June 2014.¹

WHEREFORE, Helvetia respectfully requests that the Court grant this Motion to Expedite and set the hearing on the Motion to Consolidate, or that it consider the Motion to Consolidate, at time convenient for the Court before October 29, 2014.

Respectfully submitted this 22nd day of October, 2014.

¹ As of October 22, 2014, the clerk's record and the reporter's record have been filed in both state court actions with the Fourth Court of Appeals in connection with Mr. Kahn's pending appeals of the state court judgments

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HELVETIA ASSET RECOVERY, INC.

CERTIFICATE OF CONFERENCE

This will certify that Counsel for Plaintiff Helvetia Asset Recovery Inc. conferred by email with Defendant Burton Kahn on October 21, 2014 concerning the relief requested in this Motion. Plaintiff construes Mr. Kahn's responsive email as opposition to this motion.²

/s/ Lisa S. Barkley
Lisa S. Barkley

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 22, 2014 a true and correct copy of the foregoing document was served via e-mail on the parties who receive electronic notice in this case pursuant to the Court's ECF filing system, and upon the parties identified below in the manner indicated, in accordance with the Federal Rules of Bankruptcy Procedure.

Burton M. Kahn
1706 Alpine Circle
San Antonio, Texas
Defendant

Via email: glentrail@yahoo.com

Johnny Thomas
St. Paul Square
1153 E. Commerce
San Antonio, Texas 78205
Chapter 7 Trustee

Via email: lthomas@prodigy.net

/s/ Lisa S. Barkley
Lisa S. Barkley

² See Exhibit 1 to Plaintiff's Motion to Consolidate Sanctions Hearing with Trial on the Merits, and Request for Expedited Relief.